IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15722 of 2005

Between:

G. Buchaiah S/o. Lingaiah
R/o.D.No.2-5-118, Maruthi Apartments Nakkalagunta
Hanamkonda.

..... PETITIONER

AND

1 District Cooperative Central Bank Ltd.,

Rep.by its General Manager
R/o. Head Office Subedari,

Hanamkonda Warangal District-506001.
2 The General Manager District Cooperative Central Bank Ltd.,
Subedari Hanamkonda, Warangal Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a suitable writ order or direction more particularly one in the nature of writ of mandamus declaring the impugned show notices in RC.No.B9/Esst/1569/2003-03, Dt.11-4-2005 and 9-7-2005 has totally contrary to law, illegal and without jurisdiction and in violation of the principles of natural justice as per the judgment of the Hon'ble Supreme court in AIR 1994 S.C. 1974 (Paragraph 7&9) and 1998 (7) S.C.C. 84 (Paragraph 16 to 18) and set aside the disciplinary enquiry in accordance with law by allowing the petitioner to make a representation against the enquiry report/findings of the enquiry officer dt.14-8-2003.

Counsel for the Petitioner:SMT.S.A.V.RATNAM

Counsel for the Respondents: Mr. NAGESWARA SRI.

The Court at the stage of admission made the following :

ORDER:

This writ petition is filed by the petitioner questioning the show cause notice dated 09-07-2005 alleging that the disciplinary authority while issuing show cause notice dated 11-04-2005 has come to a conclusion with reference to the findings of the Enquiry Officer and thereafter only, the said show cause notice was issued calling upon the petitioner to submit his explanation. Therefore, the said show cause notice is not legal and valid, and the earlier show cause notice as well as the present show cause notice are illegal and without jurisdiction.

The grievance of the petitioner is that he was not given sufficient opportunity to assail the findings of the Enquiry Officer, and therefore, both the show cause notices are illegal and without jurisdiction. Admittedly, the disciplinary authority after receiving the enquiry report issued a show cause notice dated 11-04-2005 enclosing a copy of enquiry report calling upon the petitioner to submit his explanation. Pursuant to which, the petitioner submitted his explanation dated 25-04-2005. After considering the explanation of the petitioner, the disciplinary authority has come to a conclusion that the charges leveled against the petitioner were established, and therefore, proposed to impose punishment of dismissal from service and accordingly, issued another show cause notice dated 09-07-2005. At that stage, the petitioner has come up with the present writ petition alleging that the show cause notices issued are contrary to the judgments of the Supreme Court and therefore sought to quash the same.

Though the learned counsel for the petitioner sought to contend that sufficient opportunity has not been given to the petitioner and thereby violated the principles as laid down by the Apex Court, but in fact, the petitioner did not assail the notice dated 11-04-2005 immediately. The disciplinary authority after considering the explanation has come to a conclusion on that the charges levelled against the petitioner were proved. Thereafter, the disciplinary authority had issued the second show cause notice dated 09-07-2005 proposing to impose the punishment of removal though such proposal was not there in the earlier show cause notice. In fact, as per the decision of the Supreme Court, a second show cause notice is not contemplated.

Now, in any case, as the disciplinary authority has issued a show cause notice, it is open to the petitioner to submit his explanation and this Court cannot interfere at the stage with reference to the show cause notice dated 09-07-2005 as the conclusions arrived at by the disciplinary authority with reference to the charges are only after considering the explanation of the petitioner.

Therefore, there is absolutely no merit to interfere with the said show cause notice at this stage. However, it is made clear that if the petitioner submits his explanation, the disciplinary authority is directed to consider the same and pass appropriate orders.

The writ petition is accordingly disposed of. No costs.

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S. ANANDA REDDY, J.

Dated: 19..07..2005.

rns

To

1 The General Manager,

District Cooperative Central Bank Ltd.,

Head Office, Subedari,

Hanamkonda, Warangal District-506 001.

2 The General Manager,

District Cooperative Central Bank Ltd.,
Subedari, Hanamkonda,

Warangal District.

3 Two CD copies